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6 **UNITED STATES DISTRICT COURT**
7 **WESTERN DISTRICT OF WASHINGTON**
8 **AT SEATTLE**

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10 ANTHONY EUGENE LEWIS,

11 Petitioner,

12 v.

13 JEFFREY UTTRECHT,

14 Respondent.

15 Case No. C08-1239RSL

16 **ORDER DENYING MOTION**
17 **FOR CLARIFICATION**

18 This matter comes before the Court on petitioner's motion for clarification of
19 whether "the Honorable Mary Theiler's report and recommendation and proposed order
20 required 'Standard of Review.'" Motion at p. 1. The Court adopted the Report and
21 Recommendation and dismissed petitioner's Section 2254 petition for habeas corpus.

22 Petitioner contends that the Court should have granted him an evidentiary hearing
23 prior to dismissing his petition. Petitioner's filing is in essence a motion for
24 reconsideration. Petitioner has already filed a motion for reconsideration of the order
25 dismissing his petition, and that motion was denied. The current motion is denied as
26 untimely.

27 Even if the Court were to consider the merits of petitioner's motion, it would deny

1 the motion. The petition was denied as untimely. The Court could resolve the petition
2 based solely on the state court record, so it was not required to conduct an evidentiary
3 hearing. See, e.g., Schriro v. Landrigan, 550 U.S. 465, 474 (2007).

4 Accordingly, petitioner's motion for clarification (Dkt. #30) is DENIED.

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6 DATED this 16th day of March, 2009.
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Robert S. Lasnik
United States District Judge